

# 760 CMR: DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## 760 CMR 65.00: THE MASSACHUSETTS SHORT-TERM HOUSING TRANSITION PROGRAM

### EMERGENCY REGULATIONS

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#### 65.01 Application

760 CMR 65.00 is applicable to all short-term housing transition program (STHT) assistance provided through Budget Line Item 7004-0108 and administered by the Department. STHT assistance may also be referred to as HomeBase (Building Alternatives to Shelter) assistance.

#### 65.02 Definitions

Definitions in 760 CMR 4.02 and 760 CMR 5.03 shall apply in 760 CMR 65.00, except that:

Applicant or Homeless Applicant - shall mean the head of household of a family qualified to apply for temporary emergency shelter under 106 CMR 309.040(A) & (B).

Appropriate Unit Size - shall mean a housing unit that complies with the requirements of 106 CMR 410.000: Minimum Standards of Fitness for Human Habitation and with any applicable provisions of the State Building Code 780 CMR for the family composition of a Participant Family. Family members shall share bedrooms, with the following exceptions:

- (a) an adult older than 21 years of age shall not share a bedroom with a child over 10 years of age;
- (b) a child over 10 years of age shall not share a bedroom with another person of a different gender;
- (c) an adult shall not share a bedroom with an adult of the opposite gender unless the other adult is:
  - 1. the spouse of the first adult,
  - 2. a person involved as a couple in an inter-dependent relationship that is intended to be long-term with the first adult; or
  - 3. the other biological or adoptive parent of a child in the family; and
  - 4. not more than four people shall share a bedroom.

Family or Household - shall mean household as defined in 106 CMR 309.020(A).

Unit - Where the context involves STHT, unit shall mean a housing unit where a Participant Family resided, resides, or will reside.

The following definitions shall also apply:

Administering Agency - shall mean a government agency or nonprofit organization with which the Department has a contractual relationship to provide services and benefits to Recipients.

Contract Rent - shall mean the total monthly rent specified in the lease, the Request for Program Payment and Rental Assistance Payment Contract for a Contract Unit occupied by a Participant Family. The Contract Rent includes the value of the Rental Assistance paid by STHT and the amount of the Participant's share of rent. Contract Rent does not include payments made by the Participant separately to utility providers for the cost of heat, cooking fuel, and/or electricity or the amount of utility allowances calculated pursuant to 760 CMR 65.04 (2)(b).

Contract Unit - shall mean a unit occupied by a Participant Family for which the Participant submits a Request for Program Payment and enters into a lease with the Owner. The Owner or Owner's Agent and the Administering Agency will also sign a Rental Assistance Payment Contract for the Contract Unit.

Hearing Officer - shall mean an impartial person appointed by the administering agency that conducts hearings on appeals in accordance with an approved hearings procedure and renders written decisions based on the material facts and applicable law.

Imminently at Risk of Becoming Homeless - shall mean that an applicant has been served:

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(a) by a sheriff or constable on behalf of the Owner or Owner's agent with a 48-hour notice of levy on execution in the context of a summary process action for eviction or

(b) by the primary tenant, with a copy to the Owner or Owner's agent, with written notice that the applicant and the applicant's family will be barred from the primary tenant's unit and forbidden from re-entry except as a daytime guest after a date not more than 48 hours from the date of such notice.

In cases involving 760 CMR 65.02: Imminently at Risk of Becoming Homeless (b) the Department or Department's designee shall, in addition, confirm the imminence of the applicant's required departure from the primary tenant's unit.

Median Area Income - shall mean the median income for the relevant geographical area, as published in the most recent federal Department of Housing and Urban Development annual median area income guide.

Notice of Denial of STHT Benefits - shall mean notice from the Department or the Department's designee to a recipient of or eligible applicant for Emergency Assistance temporary emergency shelter benefits pursuant to 106 CMR 309.040 that the recipient's request for a referral to benefits administered under 760 CMR 65.00 has been denied. A notice of denial of STHT benefits shall advise the applicant that the applicant has a right to appeal, to a hearing, the time for requesting such a hearing, and the manner for requesting such a hearing. It shall advise the applicant of the right to be represented at a hearing.

Notice of Level and Type of Benefits - shall mean notice from an Administering Agency to a Participant of the type and level of benefits determined applicable to the Participant Family under 760 CMR 65.00. A notice of level and type of benefits shall advise the Participant that the Participant has a right to appeal, to a hearing, the time for requesting such a hearing, and the manner for requesting such a hearing. It shall advise the Participant of the right to be represented at a hearing.

Notice of Termination - shall mean notice from an Administering Agency to a Participant that the Participant Family's benefits under 760 CMR 65.00 are to be terminated. A notice of termination shall advise the Participant that the Participant has a right to appeal, to a hearing, the time for requesting such a hearing, and the manner for requesting such a hearing. It shall advise the Participant of the right to be represented at a hearing.

Owner - shall mean a person (including a corporation or other entity) who has legal title to property.

Owner's Agent - shall mean a person who is legally authorized to act in the place of the Owner for the purpose of transacting business.

Participant - shall mean the head of household of a family that is authorized to receive benefits pursuant to 760 CMR 65.00.

Participant Family - shall mean a family that is authorized to receive benefits pursuant to 760 CMR 65.00.

Program Participation Agreement - shall mean a contract document between the administering agency and a Participant that certifies program eligibility and sets forth program requirements, guidelines and benefits for applicants who have been determined eligible for assistance pursuant to 760 CMR 65.00 . This agreement may be incorporated into a single document with a stabilization plan.

Recipient - shall mean each family member of a family who is authorized to receive benefits pursuant to 760 CMR 65.00.

Rental Assistance Benefits Holder - shall mean a Participant who has been accepted into the STHT Program and who has been determined suitable by the administering agency to receive Rental Assistance benefits. When the Participant Family locates to a Suitable Unit, and executes a lease for that unit, the Rental Assistance Benefits Holder becomes a Rental Assistance Benefits Participant.

Rental Assistance Benefits Participant - shall mean a Participant who has been accepted into the STHT Program, been determined suitable by the administering agency to receive Rental Assistance benefits, located to a Suitable Unit, and executed a lease for that unit, Rental assistance benefits are available to the Rental Assistance Benefits Participant, whether or not the Participant moves, provided he or she remains eligible.

Rental Assistance Payment - shall mean an amount paid by an administering agency to an Owner or Owner's Agent in accordance with 760 CMR 65.00.

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Suitable Unit - shall mean a dwelling unit for which a Rental Assistance Payment Contract is to be executed. The unit must:

- (a) be intended for occupancy by the Participant Family and as the Participant Family's Primary Residence;
- (b) be of an appropriate unit size for the Participant Family in accordance with 760 CMR 65.02: Suitable Unit.
- (c) comply with 106 CMR 410.000: Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II (including lead paint laws, whenever the family includes a child under the age of six (6) years), State Building Code 780 CMR; and
- (d) rent for not more than eighty percent (80%) of the fair market rent for an appropriate size unit for the family in the applicable geographic area as determined by the United States Department of Housing and Urban Development.

For purposes of 760 CMR 65.02: Suitable Unit(a), additional individuals may also reside together with the Participant Family in the unit with the permission of the Participant, the administering agency, and the Department. In such cases, the unit must comply with 106 CMR 410.000 Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II, State Building Code: 780 CMR, and 760 CMR 65.02: Appropriate Unit Size based on the total number of residents in the unit, and the fair market rent for the unit shall be determined based on the number of bedrooms that can be occupied by the total number of residents pursuant to the 106 CMR 410.000 Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II and 760 CMR 65.02: Appropriate Unit Size. The STHT benefits provided to a Participant Family housed with other individuals pursuant to 760 CMR 65.02: Suitable Unit shall be based on the number and ages of family members in the Participant Family, as determined by 106 CMR 309.020 (A): Household, and shall not consider individuals residing with the Participant Family who are not members of the Participant Family.

To verify compliance with 760 CMR 65.02: Suitable Unit(c) of this definition, the administering agency, before move-in by the Participant Family, shall, pursuant to such guidelines as may be issued by the Department, inspect each unit to verify that it is in compliance with 106 CMR 410.000 Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II, any applicable Building Code: 780 CMR requirements, and (if the family includes a child younger than 6 years of age) applicable lead paint law. Reinspections may be required pursuant to guidelines issued by the Department.

760 CMR 65.02: Suitable Unit(d) shall not apply in a Participant Family's first year of receipt of benefits under 760 CMR 65.00 to families previously housed in short-term housing transition programs currently administered by the Department that are transitioning to benefits administered under 760 CMR 65.00 in the unit currently occupied by the family and that would be displaced due to 760 CMR 65.02: Suitable Unit(d). The rent for units occupied by such families during the first year of receipt of benefits under 760 CMR 65.00 shall not exceed the rental payment amount for such unit immediately prior to the family's transition to benefits under 760 CMR 65.00. 760 CMR 65.02: Suitable Unit(d) may be waived by the Department if the Department determines that placement of a Participant Family in such unit is cost-effective and meets the short-term housing needs of the Participant Family in a timely manner. In no case shall the rent for a unit subject to a waiver under 760 CMR 65.02: Suitable Unit(d) exceed one hundred percent (100%) of the fair market rent for such a unit.

Temporary Accommodation - shall mean a facility available for short- or long-term overnight stays and compliant with the provisions of the State Building Code: 780 CMR and, if applicable, 106 CMR 410.000 Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II, relevant to the particular facility.

Utilities - shall mean any or all of the following: electricity and any other fuels for heat, hot water, and cooking.

### 65.03 Eligibility for Program Participation

- (1) A family shall be eligible for STHT assistance if it (a) is a homeless family or a family imminently at risk of becoming homeless that is eligible for temporary emergency family shelter pursuant to 106 CMR 309.040 (A) and (B), and is not ineligible pursuant to 760 CMR 65.03(2). Eligibility determinations for STHT benefits shall be made by the Department or the Department's designee.
- (2) A family shall not be eligible for STHT assistance if the family:

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(a) is determined eligible for Emergency Assistance temporary emergency shelter benefits pursuant to 106 CMR 309.040 and the head of household is not more than 21 years of age at the time of application for Emergency Assistance; or

(b) is receiving Emergency Assistance temporary emergency shelter benefits pursuant to 106 CMR 309.040, including families residing in Emergency Assistance temporary emergency shelter because of insufficient capacity within the STHT program. A family who is ineligible under 760 CMR 65.03(2)(b) may become eligible for STHT if it:

1. is receiving benefits from the Emergency Assistance temporary emergency shelter program and has received a written referral to STHT by the Department or a designee of the Department, which shall include a determination that the family has successfully completed a young parents congregate shelter program administered by the Department through the Emergency Assistance temporary emergency shelter program under 106 CMR 309.040; and

2. has been in full compliance with the requirements of the Emergency Assistance program, including any program shelter rules and re-housing plan requirements (for purposes of 760 CMR 65.03(2), an incident or omission to act that occurred more than six months prior to a referral to STHT shall not be considered). For purposes of 760 CMR 65.03(2), an incident or omission shall be deemed to have occurred if the family has received written notice from the Department or an agency under contract to the Department of an incident or omission that would constitute a violation of such a rule on a form approved by the Department, and regardless whether the notice has been appealed. If such a notice has been rescinded by the Department or the agency providing such notice or overruled by the Department's Hearings Division, such notice of noncompliance shall not be considered in determining eligibility pursuant to 760 CMR 65.03(2).

3. a family shall not be eligible for STHT assistance after the family has exhausted the maximum benefit limit of 36 successive months of STHT benefits until 12 months have passed from the last date on which benefits were provided to, or payments made on behalf of, the Participant Family. For purposes of 760 CMR 65.06(3) any minor under the age of 18, if otherwise part of a family headed by an adult eligible under 760 CMR 65.06(3), may receive STHT benefits for not more than 36 successive months, up to the age of 18. An adult, over the age of 18, may receive benefits under 760 CMR 65.03(3), only if:

- (a) the family includes a minor under the age of 18 who is eligible under 760 CMR 65.06(3); and

- (b) no member of the family has received STHT benefits for more than 36 successive months. For all STHT Participant Families, the 36 successive month period shall commence on the first date for which STHT benefits were provided to or on behalf of the family, excluding temporary accommodations received prior to a family's first receipt of any other STHT benefit, and shall terminate three years from that date.

- (4)(a) 1. A Participant Family that is terminated from receipt of benefits under 760 CMR 65.03 for cause pursuant to 760 CMR 65.05 (1) and that was receiving rental assistance at the time of termination shall be ineligible for further benefits under 760 CMR 65.00 or through Emergency Assistance for 24 months from the end of the last month for which rental assistance benefits were provided to the Participant Family.

2. A Participant Family that is terminated from receipt of benefits under 760 CMR 65.00 for cause pursuant to 760 CMR 65.05 (1) and that was receiving non-rental assistance in the form of rent arrears, past due utility charges, or extraordinary medical bills at the time of termination shall be ineligible for further benefits under 760 CMR 65.00 or through Emergency Assistance for 12 months from the last date on which benefits were provided to, or payments made on behalf of, the Participant Family.

- (b) After a family has been terminated from participation in the STHT program without cause pursuant to 760 CMR 65.05 (2) or for exceeding maximum income requirements pursuant to 760 CMR 65.05 (1) (r), no member of that family will be eligible to receive STHT benefits for 12 months from the last date for which benefits were provided to, or payments made on behalf of, the Participant Family.

(5) 760 CMR 65.03(3) and (4) shall not apply to Participant Families in which the Participant is over 60 years of age or is disabled and in compliance with the requirements of a housing stabilization plan that accommodates the Participant's disabilities, unless the Participant Family was terminated for cause pursuant to 760 CMR 65.05(1) for activity that threatens the health, safety or security of the family, other program participants or program staff. Disability under 760 CMR 65.03(5) shall be verified by receipt of benefits based on disability from the United States Social Security Administration or the Department of Transitional Assistance.

(6) Until all adult Recipients over the age of 18 have entered into a Stabilization Plan approved by the administering agency, the family will not be eligible to receive STHT benefits. A Stabilization Plan adopted pursuant to 760 CMR 65.03(6) shall be considered a Self-Sufficiency Plan, as provided by Budget Line Item 7004-0108. A standard form Stabilization Plan shall be issued by the Department. The Stabilization Plan shall cover the period during which STHT assistance is paid to or on behalf of the family. Except in the case of Stabilization Plans accompanying a lump sum benefit, each Stabilization Plan must include at least the following elements:

- (a) the activities required by 106 CMR 309.040 (D)(2), except that the savings requirement under 106 CMR 309.040 (D) (2) (g) shall not apply;
- (b) a requirement that the family comply with all the provisions of 760 CMR 65.05 (1);
- (c) a requirement that the children age 12 and under shall not be left in the Unit unattended by an adult over age 18;
- (d) a requirement that the family not use STHT benefits for purposes other than those authorized by the administering agency;
- (e) a requirement to comply with the service plans of any other state agency providing services to the family; and
- (f) requirements to address the following issues: financial responsibility; job training, work search, and employment; educational attainment; and well-being of children in the family.

(7) Annual Recertification. Every twelve (12) months during a Participant Family's 36 successive months of program participation as determined pursuant to 760 CMR 65.03 (3), not less than 30 days before the annual anniversary date of the Participant's initial participation in STHT, not counting receipt of temporary accommodation received prior to a family's first receipt of other STHT benefits, the administering agency shall review:

- (a) the Participant Family's gross income as defined in 106 CMR 309.020 (E);
- (b) the Participant Family's continuing eligibility for benefits;
- (c) whether a Participant's unit size is still appropriate for Participant's needs; and
- (d) such additional information as the Department may require in order to re-determine the type, level, and value of STHT benefits to be made available to the Participant Family in the following year of the Participant Family's program participation. Notwithstanding the foregoing, Participant Families who have received lump sum non-rental benefits shall be required to recertify pursuant to 760 CMR 65.06(7) whenever they request additional STHT benefits, aside from stabilization services. The Department may issue guidelines as to the type of information to be provided for such annual recertification and as to the nature and level of STHT benefits to be provided. If the Participant Family's income and assets are available through other government agencies, the administering agency may rely on documentation presented to such other agencies in the redetermination of the Participant Family's income. If the administering agency determines that, based upon the information provided in the annual recertification process, to change the type, level, or value of benefits provided to the Participant Family under 760 CMR 65.04(1), the administering agency shall provide a Notice of Level and Type of Benefits to the Participant, which shall be effective 30 days from the date of delivery.

(8) If a Participant Family contains more than one adult (individual 21 or older), the administering agency may refer any additional adult Recipient(s) to alternative adult sheltering arrangements with the approval of the Department, with any such referral to be of immediate effect.

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### 65.04 Determination of Benefits

- (1) General Provisions. If the Department or administering agency determines, pursuant to guidelines issued by the Department, that assistance other than Rental Assistance will best serve the family in obtaining safe, permanent housing, the Department may provide alternative housing-related expenses for eligible families, in accordance with guidance published from time to time by the Department, which guidance may, but need not, include payment for the purposes listed in 760 CMR 65.04 (3) (c) through (8). Any assistance paid under 760 CMR 65.04(1) must be necessary to maintain housing for the Participant Family.
- (2) Rental Assistance
  - (a) In determining the value of Rental Assistance for each Rental Assistance Benefits Participant in STHT, the administering agency shall establish each Rental Assistance Benefits Participant's gross family income as defined in 106 CMR 309.020 (E). The administering agency may utilize data provided by another government agency in determining income. The amount of a Rental Assistance Benefits Participant's Rental Assistance Payment shall be the difference between the Rental Assistance Benefits Participants' portion of the rent and utilities, as determined in accordance with 760 CMR 65.04 (2)(b), and the Contract Rent.
  - (b) Rental Assistance Benefits Participants shall pay thirty-five percent (35%) of gross family income, as determined pursuant to 106 CMR 309.020 (E), toward rent and utilities. For purposes of calculating this requirement, utility allowances shall be as determined by the Department on a regional basis, based on such factors as the Department deems relevant, including but not limited to comparable values for Departmentally determined utility allowances for recipients of Housing Choice (Section 8) vouchers, geography, and historic usage patterns.
  - (c) When the value of the Rental Assistance benefits has been determined in accordance with 760 CMR 65.04 (2)(b), the administering agency will send a Rental Assistance Payment each month to the Owner of the Contract Unit in which the Rental Assistance Benefits Participant lives, or to the Owner's Agent, and the remainder of the Contract Rent shall be paid to the Owner or the Owner's Agent by the Rental Assistance Benefits Participant. In cases when 35% of the Rental Assistance Benefits Participant's gross income is less than the utility allowance as calculated pursuant to 760 CMR 65.04 (2)(b), the administering agency will send a Rental Assistance Payment each month to the Owner of the Contract Unit in which the Rental Assistance Benefits Participant lives, or to the Owner's Agent in the amount of the full Contract Rent, and the administering agency will send a utility allowance payment each month to the Participant in an amount determined by subtracting thirty-five percent (35%) of gross family income, as determined pursuant to 106 CMR 309.020 (E), from the full utility allowance for the Participant's family as determined in accordance with 760 CMR 65.04 (2)(b).
  - (d) Determination of Value of Rental Assistance benefits on an Annual Basis. Upon the annual recertification of family income in accordance with 760 CMR 65.03 (8), the administering agency shall then determine whether the Participant's Rental Assistance benefits value and share of rent should be adjusted based on the family income at the time of the annual review in accordance with 760 CMR 65.04 (2). If the Participant's share of the rent is adjusted, the value of the Rental Assistance benefits shall be adjusted accordingly, effective in the first month of the following year of Rental Assistance benefits.
  - (e) If a Rental Assistance Benefits Participant relocates, the Participant's continued eligibility, share of rent and appropriate unit size shall be fully redetermined at that time. If a Rental Assistance Benefits Participant experiences a decrease in family income, the Rental Benefits Participant may request an interim recertification, which may result in a redetermination of the Rental Assistance Payment. Interim recertification shall not be required if a Rental Benefits Participant's family experiences an increase in income.
  - (f) Rental Assistance benefits values shall be adjusted whenever necessary to comply with 760 CMR 65.00. In the event that a Rental Assistance Benefits Participant files an appeal as to the amount of a redetermined rent share within fourteen (14) days of the administering agency's notice of the redetermined rent, the Participant shall continue to pay the rent share in effect instead of the redetermined rent (unless the redetermined rent is lower) until disposition of the appeal. Following disposition of the appeal, the Participant shall forthwith pay any additional amounts determined to have been due but not paid since the effective date set out in the notice of redetermined rent or the administering agency shall credit the Participant with any amounts paid but determined not to have been due. The redetermined rent shall be paid beginning on its effective date.

(g) A Rental Assistance Benefits Holder shall submit a Request for Program Payment for a proposed Contract Unit to the administering agency.

(h) Upon receipt of the necessary documentation, the administering agency shall enter into a Rental Assistance Payment Contract with the Owner of the Contract Unit, or the Owner's Agent, on behalf of the Rental Assistance Benefits Holder (subsequently referred to as the Rental Assistance Benefits Participant).

(i) While a Rental Assistance Payment Contract is in effect, the terms and conditions of the Participant's Program Participation Agreement remain in effect for the period of time that the Rental Assistance Benefits Participant occupies the Contract Unit or until otherwise terminated. When a Rental Assistance Benefits Participant chooses or is required to move, the Participant shall give one calendar month's written notice to the administering agency and to the Owner or Owner's Agent. If a Rental Assistance Benefits Participant chooses to leave a Contract Unit without good cause as determined by 106 CMR 309.040 (F)(1)(b) before locating a new Suitable Unit, the Participant will be deemed to have abandoned the Contract Unit. If a Rental Assistance Benefits Participant moves and remains eligible, the administering agency shall issue a new Program Participation Agreement.

(j) If a Rental Assistance Benefits Participant has vacated an STHT unit with good cause as determined by 106 CMR § 309.040 (F) (1) (b) before locating another Suitable Unit and does not locate a new Suitable Unit within thirty (30) days of vacating the unit, the Program Participation Agreement will expire and the Contract Unit will be deemed abandoned, and the Participant shall not be entitled to further STHT benefits. The administering agency may extend this period for up to an additional sixty days upon a showing of good cause, as determined by 106 CMR § 309.040 (F) (1) (b), by the Participant.

(k) Subject to the qualifications in 760 CMR 65.04 (2)(i) and (j), a Rental Assistance Benefits Holder may move anywhere in the state without jeopardizing program eligibility. When a Rental Assistance Benefits Participant relocates from one administering agency's jurisdiction to another, the Rental Assistance benefits will thereafter be administered by the administering agency with jurisdiction where the Participant takes up residence and the Department will make any necessary adjustments to the budget allocations for the affected administering agencies pursuant to guidelines issued by the Department.

**(3) Non-Rental Assistance Benefits**

(a) The administering agency shall not pay more than \$4000 per year per family towards benefits, aside from rental assistance, available through STHT during the first twelve months in which a family receives benefits. Such amount shall be reduced by \$200 per year (5% of \$4000) in each succeeding twelve-month period during which a family receives benefits. Except as provided otherwise in 760 CMR 65.04 (3)(c), the benefits year for purposes of 760 CMR 65.04(3) shall commence on the first date on which services were provided to or benefits were received by the Participant Family. The Department may issue guidance as to the nature, use, and amount of benefits for specific purposes payable pursuant to 760 CMR 65.04.

(b) Participant Families can receive assistance in any combination of types of non-rental assistance, with the exception of:

1. Temporary Accommodation. Temporary Accommodation is not subject to the cap on maximum annual benefits.
2. Out-of-State Relocation Assistance. Out-of-state relocation assistance, which may only be received one time by any family. Families utilizing out-of-state relocation assistance, whether or not in combination with other forms of non-rental assistance, may not further access STHT assistance during the year following their receipt of relocation assistance.
3. Moving Cost Assistance. Moving cost assistance may only be paid for one move per year per family, except when a subsequent move is caused by a direct threat to the family's safety or a serious health condition of a family member that cannot be reasonably accommodated in the original housing arrangement.

**(c) Temporary Accommodation**

1. A family eligible to receive STHT benefits that cannot locate a Suitable Unit or other feasible alternative housing and has no other available temporary accommodations may receive benefits for temporary accommodation as an immediate temporary housing arrangement, or the equivalent thereof, pursuant to guidance issued by the Department.

2. Except as provided in 760 CMR 65.04(3) and 760 CMR 65.07(g), temporary accommodation is only available to families who have a substantial likelihood of qualifying for and securing rental housing utilizing STHT rental assistance or non-rental assistance benefits.

3. Participant Families may receive temporary assistance for not longer than 5 days before demonstrating that they meet the requirements of 760 CMR 65.04(3)(b).

4. Administering agencies shall provide to the Participant receiving temporary accommodation benefits, and the Participant shall sign, an agreement based on a standard form approved by the Department. The agreement shall provide, in addition to such other terms and conditions of receipt of benefits as the Department may require, that:

i. the temporary accommodation shall constitute only a license to use any space provided to the family as a temporary accommodation, and only so long as the family complies with 760 CMR 65.00.

ii. the Participant Family must move to another temporary accommodation for the convenience of the Department;

iii. the Participant Family must move to a STHT Contract Unit or alternative feasible housing, including but not limited to alternative feasible housing made available through STHT non-rental assistance benefits, when such housing becomes available;

iv. the Participant Family must move out if terminated from STHT for any cause; and

v. the temporary accommodation does not create a tenancy.

(d) Incentive Payments. The administering agency may provide incentive payments to a non-STHT-Recipient primary tenant to permit the Participant Family to reside with such primary tenant. This benefit allows a family to stay with another family in a situation when the Owner of the unit or the Owner's Agent approves and the unit complies with 106 CMR 410.000 Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II, the State Building Code: 780 CMR, and 760 CMR 65.02: Appropriate Size Unit for the total number of residents including the Participant Family, or the primary tenant has the ability to transfer to another unit that complies with 106 CMR 410.000 Minimum Standards of Fitness for Human Habitation State Sanitary Code: Chapter II, the State Building Code 780 CMR, and the definition in 760 CMR 65.02: Appropriate Size Unit for the total number of residents including the Participant Family.

Payments pursuant to 760 CMR 65.04(3)(d) shall not be made in cash to the primary tenant, but shall be in the form of direct payment to providers of services for the benefit of the primary tenant or through the provision of goods (which may include stored value cards) and services to the primary tenant. In exchange for such benefits, the primary tenant must agree, if possible under the terms of the tenant's lease or tenancy agreement, to enter into a 12-month sub tenancy with the Participant, subject to the terms and conditions of the primary tenant's lease or tenancy agreement.

If the primary tenant's lease or tenancy agreement does not allow the Participant to become a subtenant, the primary tenant shall list the Recipients as additional household members with the Owner or Owner's Agent of the primary tenant's unit, and shall sign such documents as the Owner or Owner's Agent and the administering agency may require so that the Participant Family will be able to continue to reside in the primary tenant's unit for at least 12 months. In addition, payments under 760 CMR 65.04(3)(d) may be made to an Owner or an Owner's Agent who has served a notice of levy on execution on a Participant Family, provided that such Owner or Owner's Agent returns the execution to the court unexecuted, acknowledges satisfaction of judgment, and agrees to enter into a 12-month lease with the Participant. Payments to or on behalf of a primary tenant or an Owner or Owner's Agent pursuant to 760 CMR 65.04(3)(d) shall cease immediately as soon as a Participant Family ceases to reside in the relevant unit.

(e) Furnishings. The administering agency may provide the Participant Family with furnishings, or payment to or on behalf of the family for furnishings, such as a refrigerator, beds, bedframes, or cribs, that are necessary to make an unfurnished unit rented by the Participant Family habitable. No furnishings provided pursuant to 760 CMR 65.04(3)(e) shall be affixed to the unit. If benefits are provided pursuant to 760 CMR 65.04(3)(d), the administering agency shall enter into an agreement with the Owner or



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Owner's Agent that any furnishings provided to the Participant Family and not removed by the Participant Family members when they move out of the unit, if such furnishings remain in good repair, shall revert to the ownership of the administering agency for the use of other Participant Families and that the Owner or Owner's Agent shall provide the administering agency with notice that such furnishings have been left by the Participant Family in the unit upon their vacation of the unit and a reasonable opportunity to remove such furnishings.

(f) Moving Cost Assistance. Pursuant to 760 CMR 65.04(3)(f), an administering agency may make a single payment to assist a Participant Family with:

1. expenses of transportation for persons and goods to move to a location outside of the Commonwealth of Massachusetts; or

2. payments of first month's rent, last month's rent, and a security deposit as required by an Owner or Owner's Agent prior to the Participant Family moving into a unit. Payments pursuant to 760 CMR 65.04(1) shall be limited as provided in 760 CMR 65.04 (3)(b). Payments pursuant to 760 CMR 65.04(2) may be made on behalf of any Participant Family, whether receiving rental assistance or non-rental assistance, provided that the Participant Family and the Owner or Owner's Agent to enter into an agreement providing that any unused last month's rent and the amount of any security deposit shall be paid to the administering agency after the Participant Family has moved out of the unit for the use of other Participant Families.

(g) Transitional Moving-Related Aid. For Participant Families moving into an LHA from a temporary emergency shelter administered under 106 CMR 309.000 (other than former participants in a Department-administered Young Parents Program for heads of household 21 years of age or younger), administering agencies may provide transitional moving-related aid in an amount up to \$125 per month to defer the cost of benefits reductions for a period not to exceed 12 months.

(h) Mediation Services. Pursuant to guidance provided by the Department, administering agencies may provide mediation services to Participant Families, their extended family members, former roommates or housemates, primary tenants who sublet a unit to the Participant Family, and an Owner or Owner's Agent of a unit previously rented by the Participant Family, provided that such mediation services have a significant likelihood of resulting in an agreement to allow the Participant Family to obtain a residential accommodation for a period of one year or longer.

(i) Stabilization Services. Pursuant to guidance provided by the Department, administering agencies shall provide stabilization services to Participant Families. Such services shall include economic self-sufficiency case management services and may include housing search assistance, housing placement support, links with community-based agencies to ensure long-term housing stability and economic growth, and assistance with locating resources to aid in fulfilling stabilization plan requirements for Participant Families.

Stabilization services provided through STHT shall be deemed to have incurred no cost to or on behalf of the Participant Family and shall be provided to all Participant Families for the duration of their receipt of benefits pursuant to 760 CMR 65.00. Interactive stabilization services shall be made available to all Participant Families during such time as the family is receiving other STHT benefits and for 12 months from the last date on which other STHT benefits were provided to, or payments made on behalf of, the Participant Family, provided that no such services shall be provided after termination of the family's benefits pursuant to 760 CRM 65.05.

### 65.05 Requirements for Continuing Participation

(1) To receive, or continue to receive, STHT benefits:

- (a) Repay Arrearages. A Participant must include, in his/her stabilization plan, a repayment agreement to repay fully over time any arrearage owed to a LHA or to a STHT administering agency, Owner, or Owner's Agent and to stay current with any such repayment agreement.

- (b) Repay Damages. A Participant must include, in his/her stabilization plan, a repayment agreement to repay fully over time any damages or vacancy loss payments to an LHA or to a STHT administering agency, Owner, or Owner's Agent and stay current with such a repayment agreement.

- (c) Comply with Program Participation Agreement. A Rental Assistance Benefits Participant must comply with the terms of his/her Program Participation Agreement.

- (d) Lease Compliance. The Participant Family must not substantially and materially violate its lease. A substantial and material violation of a lease shall include the Participant's failure to pay his or her portion of the rent or utilities for which the family is responsible on a timely basis. Each instance of late payment of rent or utilities shall constitute an independent violation of 760 CMR 65.05(1)(d).
- (e) Stabilization Plan Compliance. Adult Recipients must not substantially and materially violate their Stabilization Plans, as in effect at the time of the conduct. Failure to attend a meeting without good cause, as defined in 106 CMR 343.320 (D)(1), whether scheduled to take place in person or by telephone, of which the adult Recipients have received written notice at least 2 business days in advance, shall constitute a substantial and material violation of the Stabilization Plan. For purposes of 760 CMR 65.05(1)(e) written notice provided by mail shall be deemed received 2 business days after the date of mailing. Notice in electronic form storable by the giver, such as email, text message, or instant message, shall be considered written notice pursuant to 760 CMR 65.05(1)(e) if the Participant has agreed to receipt of communications from the administering agency in such format.
- (f) Criminal Conduct by a Family Member. No member of a Participant Family may engage in criminal conduct, including but not limited to the possession of illegal firearms or the sale or possession of illegal substances, while in the unit or in the building in which the unit is located or on grounds of the property on which the unit is located.
- (g) Criminal Conduct by a Guest. No one who is a guest of a Participant Family may engage in criminal conduct, including but not limited to the possession of illegal firearms or the sale or possession of illegal substances, while in the unit or in the building in which the unit is located or on grounds of the property on which the unit is located.
- (h) Possession of Lawful Firearms. No one who is a member or guest of a Participant Family may store or have in his or her possession a lawful firearm while in the unit or in the building in which the unit is located or on the grounds of the property on which the unit is located, except if possessor of the firearm is a guest who is a law enforcement official present during the conduct of official duties.
- (i) Destruction of Property. No member or guest of a Participant Family shall destroy property in the Unit or in the building in which the Unit is located or on the grounds of the property on which the Unit is located unless the destroyed property belongs to the person who destroys it and the person destroys such property in a safe and sanitary manner.
- (j) Threats. Members of the Participant Family and their guests may not engage in conduct that constitutes a health and/or safety threat to staff of the Department, the administering agency, the Owner or Owner's Agent, or to persons lawfully in the building or on the grounds of the building in which the unit is located. Such conduct may include, but is not limited to, acts of physical and sexual violence, threats, abusive language, or intimidation.
- (k) Primary Residence. Each Recipient must use the unit as his or her primary residence. The Participant shall inform the administering agency within 5 days if a Recipient ceases to use the unit as his or her primary residence.
- (l) Abandonment. The Participant Family may not abandon the unit. Abandonment may be established by proof that the Participant Family has removed its belongings, left its belongings in the apartment in a disordered state indicating an intent to abandon and failed to respond within 3 days to a written request by the administering agency to explain the situation, has not resided in the unit for a period of 5 consecutive days without notifying the Owner or Owner's Agent and the administering agency, has not resided in the unit for a period of longer than 14 consecutive days without approval of the administering agency; has chosen to leave a Contract Unit without good cause as determined by 106 CMR 309.040 (F)(1)(b) before locating a new Suitable Unit, or has chosen to leave a Contract Unit with good cause as determined by 106 CMR 309.040 (F)(1)(b) and does not locate a new Suitable Unit within the timeframe permitted by the 760 CMR 65.04(2)(j), together with any extensions granted by the administering agency.
- (m) Unauthorized Residence. No person who is not a member of the Participant Family at the time of the STHT benefits grant, or the member of another family authorized to share the unit with the Participant Family pursuant to 760 CMR 65.02: Suitable Unit, or 760 CRM 65.04(3)(d) may reside in the unit without the permission of the Department, the Administering Agency, and the Owner or Owner's Agent. Overnight guests are allowed to the extent consistent with the lease and 760 CMR 65.05(1)(m). Any person who stays overnight in the unit beyond the guest visit timeframe permitted by the lease or for longer than 12 days (whether consecutive or cumulative during the course of a 12-month period), whichever is shorter, shall be deemed an unauthorized occupant.

(n) Accurate Reporting. Adult Recipients shall not commit fraud on the STHT program. The Participant must accurately inform the administering agency of the Participant Family's income, assets and family members and must report any material changes of the family's income, assets and family members within 10 days of such a change.

Any change of family composition must be approved by the Department, the Administering Agency, and the Owner or Owner's Agent according to such guidelines as the Department may issue from time to time. The Department, the Administering Agency, and the Owner or Owner's Agent shall approve the addition of any minor to the family if an adult Recipient has legal custody and primary physical custody of the minor.

(o) Rejection of Housing. The Participant Family must not reject an offer of safe, permanent housing, as defined in 106 CMR 309.040 (D)(2), without good cause, as defined in 106 CMR 309.040 (F)(1)(b). A Participant Family receiving temporary accommodation benefits must not reject an offer of a Suitable Unit, without good cause, as defined in 106 CMR 309.040 (F)(1)(b).

(p) Nonpayment of Rent. A Rental Assistance Benefits Participant must pay his or her share of the rent on a timely basis. A Notice of Termination issued under 760 CMR 65.05(1)(p) will be rescinded if the Owner or Owner's Agent agrees to allow, or a court requires the Owner or Owner's Agent to allow, the Participant Family to remain in the unit for so long as the Participant complies with a rent repayment agreement approved by the Owner or Owner's Agent. If a Notice of Termination under 760 CMR 65.05(1)(p) is rescinded, each monthly instance of non-payment or late payment of rent may be treated as a separate lease violation under 760 CMR 65.05(1)(d).

(q) Annual Recertification. The Participant shall provide all documentation necessary for annual recertification in order to allow the administering agency to redetermine the Participant Family's type, level, and value of STHT benefits in accordance with 760 CMR 65.03 (7).

(r) Categorical Ineligibility. A Participant Family must continue to maintain program eligibility. A Participant Family that becomes categorically ineligible for Emergency Assistance temporary emergency shelter for a reason other than exceeding Emergency Assistance maximum income requirements shall be immediately terminated from STHT benefits. If, at any time that a family's income is redetermined pursuant to information obtained through recertification pursuant to 760 CMR 65.03(7) or otherwise, the family's income exceeds 50% of the area median income for its size, that family's STHT benefits will be terminated effective at the end of the first full calendar month that occurs after the redetermination of the family's rent.

A violation of 760 CMR 65.05(1)(f) through (r) can lead to immediate termination of STHT benefits.

Two or more instances of conduct or omissions to act in violation of 760 CMR 65.05(1)(a) through (e) are grounds for termination from STHT benefits. A single incident or omission constituting a simultaneous violation of more than one of the provisions listed in 760 CMR 65.05(1)(a) through (e) shall count as only one violation.

A single incident or omission constituting a simultaneous violation of a provision or provisions included in 760 CMR 65.05(1)(a) through (e) and a provision or provisions included in 760 CMR 65.05(1)(f) through (r) shall be treated as a single violation of the provision or provisions included in 760 CMR 65.05(1)(f) through (r).

Termination for cause pursuant to 760 CMR 65.05(1)(r), except for termination pursuant to (r) for exceeding maximum income requirements, shall constitute failure to make a good faith effort to follow a Participant's housing stabilization plan.

(2) To receive, or continue to receive, STHT benefits a Participant Family must not have received more than 36 successive months of STHT benefits, excluding temporary accommodations received prior to a family's first receipt of other STHT benefits. Termination of STHT benefits pursuant to 760 CMR 65.05(2) shall be deemed without fault to the Participant or the Recipients. There shall be no appeal available for termination of STHT benefits pursuant to 760 CMR 65.05(2). The administering agency shall provide the Participant with written notice at least 60 days prior to the end of the 36th month of benefits, excluding temporary accommodations, alerting the Participant to the final date by which STHT benefits will be provided.

**65.06 Required Documents**

Documents required in the administration of the STHT shall include, but are not limited to:

- (1) Provider Contract. A contract setting out the duties and obligations of the Department and the administering agency must be signed by authorized representatives of both parties.
- (2) Rental Assistance Payment Contract. A contract provided by the Department must be signed by the Owner of a Contract Unit or the Owner's Agent and an administering agency.
- (3) Lease or Lease Addendum. All Rental Assistance Benefits Participants and Owners or Owner's Agents will be required to execute, as determined by the Department, either an STHT Lease in a form prescribed by the Department or to incorporate into the lease between an Owner and an Owner's Agency an STHT Lease Addendum prescribed by the Department.
- (4) Program Participation Agreement. All Rental Assistance Benefits Participants and authorized administering agency representatives must sign a Program Participation Agreement in a form provided by the Department, which shall set out the rights, duties and obligations of the Participant Family. The Program Participation Agreement shall constitute a contract between the Participant and the administering agency.
- (5) Request for Program Payment. When a Rental Assistance Benefits Holder locates a Suitable Unit, the Rental Assistance Benefits Holder shall submit to the administering agency a Request for Program Payment, on a form prescribed by the Department, which shall set out the address of the proposed Contract Unit, the number of bedrooms, the party responsible for payment of utilities, the name and address of the Owner or the Owner's Agent, and the proposed Contract Rent.

**65.07 Appeals Procedure**

The following actions by an Administering Agency may be appealed through the hearing procedure: the level and type of benefits granted under 760 CMR 65.00, and termination of benefits under 760 CMR 65.00. No other determinations by an Administering Agency or the Department shall be subject to appeal.

- (1) Appeal.
  - (a) The administering agency shall issue a Notice of Level and Type of Benefits or a Notice of Termination when taking such action as detailed in the nature of such notice. The Participant ("Appellant") may make a written request for a hearing to the administering agency, which must be received by the administering agency at its mail office, by mail or other means of delivery, within seven (7) calendar days after a notice of action by the administering agency has been given to applicant or Participant, except as provided in the case of redetermination of Rental Assistance benefits pursuant to 760 CMR 65.03(2)(f).
  - (b) The Department or Department's designee shall issue a Notice of Denial of STHT Benefits. The applicant (Appellant) may make a written request for a hearing to the Department Division of Hearings pursuant to 106 CMR 309.070. The appeal of such a Notice shall be heard by the Department Division of Hearings on accordance with 106 CMR 309.070.
- (2) Hearing Date and Notice of Hearing. The administering agency shall schedule such a hearing on a date within fifteen (15) days from the date of a request for a hearing and shall give written notice of not less than three (3) business days of the time and place to the Appellant.
- (3) Additional Time for Mailing. Any notice to be delivered by the United States Postal Service shall be deemed received by an applicant or Participant three (3) business days after mailing by the Department or an administering agency.
- (4) Procedure at Hearings. A hearing officer appointed by the administering agency shall conduct the hearing in a fair manner without undue delay. The hearing officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the Appellant and the representative of the administering agency shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be tape-recorded. The hearing officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and Department and administering agency rules and policies. The hearing officer may request

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the representative of the administering agency or the Appellant to produce additional information in a reasonable time, provided that such additional information is relevant to the issues or is necessary for a decision to be made, and further provided that the other party is provided an opportunity to respond to such additional information.

(5) Written Decision; Effect of Decision. Within fourteen (14) days following the hearing or as soon thereafter as reasonably possible, the hearing officer shall provide the administering agency and the Appellant with a written decision, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be based on the evidence at the hearing, materials submitted after the hearing pursuant to the permission of the hearing officer, and such additional information as may have been requested by the hearing officer.

(6) Review by the Department. Within seven (7) calendar days of mailing or other delivery of the hearing officer's decision, the Appellant or the administering agency may request review of the decision by the Department. Upon receipt of a request for review of a hearing officer's decision, the Department shall within three (3) business days notify the Appellant and the administering agency that they may submit written documentation, including legal argument, in regard to whether the hearing officer's decision should be upheld, set aside, modified, or remanded, within seven (7) calendar days of the date of the notice. The filing of any responsive documentation shall be only by leave of the Department. After the expiration of the time for submission of documentation, the Department shall promptly decide whether to uphold, set aside or modify the hearing officer's decision after permitting the Appellant and the administering agency to submit documentation. The decision of the Department shall be in writing and shall explain its reasoning if the decision does not uphold the hearing officer's decision. If a written decision is not rendered within fifteen (15) days from the expiration of the time for submission of documentation, the decision of the hearing officer shall be upheld.

(7) Effect of a Decision. The decision pursuant to the appeals procedure, unless appealed to court pursuant to M.G.L. c.30A, shall be binding on the Department, the administering agency, and the Appellant with respect to the particular circumstances involved in the appeal. An initial determination by an administering agency of level and type of benefits shall take effect immediately, even if appealed, and remain in effect until the effective date of an administrative appeal pursuant to 760 CMR 65.07(7), if appealed. A determination by an administering agency of level and type of benefits pursuant to a redetermination of benefits shall take effect pursuant to 760 CMR 65.03(7) if not timely appealed. Except as provided in 760 CMR 65.07(7), if a Notice of Termination or Notice of Level and Type of Benefits are not timely appealed, the decision shall take effect two business days after the expiration of the appeal period. If a Notice of Termination or Notice of Level and Type of Benefits is timely appealed pursuant to 760 CMR 65.07(7), the decision shall take effect eight calendar days after mailing or other delivery of the hearing officer's decision if review of the hearing officer's decision by the Department has not been requested, or two business days after the mailing or other delivery of the Department's decision, or the expiration of the Department's time to act, whichever is later. If a Participant has been evicted by the Owner or Owner's Agent before the effective date of a termination of benefits pursuant to 760 CMR 65.03(7), aid pending appeal may be provided by the Department in such temporary accommodations as the administering agency may determine until the effective date of the termination pursuant to 760 CMR 65.03(7).

An Appellant may appeal the Department's decision or failure to act to court pursuant to General Laws Chapter 30A, in which case, the court's determination on the matter shall supersede the decision on the appeal. As between the administering agency and the Department, on the one hand, and any person who was not an appellant, on the other hand, the decision on an appeal shall have no binding effect.

### 65.08 Waiver Provision

To the extent permitted by law, and to the extent required by the Americans with Disabilities Act and General Laws Chapter 151B, consistent with the rehousing goals and fundamental program requirements of benefits administered under 760 CMR 65.00, provisions of 760 CMR 65.00 may be waived in writing by the Director of the Department of Housing and Community Development if requested by an administering agency or Participant in writing for a good reason. An administering agency may submit such a request on behalf of a Participant.

### REGULATORY AUTHORITY

760 CMR 65.00: MGL c.23B §§ 3 & 6; Annual Budget line item 7004-0108